

U.S. FOREIGN  
INTELLIGENCE  
SURVEILLANCE COURT

2013 OCT -7 PM 3:39

UNITED STATES

LEEANN FLYNN HALL  
CLERK OF COURT

FOREIGN INTELLIGENCE SURVEILLANCE COURT

WASHINGTON, D.C.

IN RE AMENDED MOTION FOR	)	
DECLARATORY JUDGMENT OF A FIRST	)	
AMENDMENT RIGHT TO PUBLISH	)	Docket No. Misc. 13-03
AGGREGATE INFORMATION ABOUT	)	
FISA ORDERS	)	
	)	
	)	
IN RE MOTION TO DISCLOSE AGGREGATE	)	Docket No. Misc. 13-04
DATA REGARDING FISA ORDERS	)	
	)	
	)	
IN RE MOTION FOR DECLARATORY	)	
JUDGMENT TO DISCLOSE AGGREGATE	)	Docket No. Misc. 13-05
DATA REGARDING FISA ORDERS	)	
AND DIRECTIVES	)	
	)	
	)	
IN RE MOTION FOR DECLARATORY	)	
JUDGMENT TO DISCLOSE AGGREGATE	)	Docket No. Misc. 13-06
DATA REGARDING FISA ORDERS AND	)	
DIRECTIVES	)	
	)	
	)	
IN RE MOTION FOR DECLARATORY	)	
JUDGMENT TO REPORT AGGREGATED	)	Docket No. Misc. 13-07
DATA REGARDING FISA ORDERS	)	
	)	

JOINT MOTION FOR STAY OF PROCEEDINGS

The parties hereby jointly move for a stay of proceedings in this matter including, in particular, a stay of the upcoming deadline of October 21, 2013 for Movants' reply to the Government's response to the Movants' motions for declaratory relief. In support thereof, the parties state as follows:

1. At the end of the day on September 30, 2013, the appropriations act that had been funding the U.S. Department of Justice (“Department”) expired and annual appropriations to the Department lapsed. The Department does not know when funding will be restored by Congress.

2. Absent an appropriation, Department of Justice attorneys and employees are prohibited from continuing to work, even on a voluntary basis, except in very limited circumstances, including “emergencies involving the safety of human life or the protection of property,” 31 U.S.C. § 1342.

3. On October 2, 2013, Movants approached counsel for the Government to seek a stay of the deadline for Movants’ reply in order to discuss with counsel for the Government whether cleared counsel for Movants can be permitted to access classified information contained in the response and declaration filed by the Government. Absent an appropriation, Department of Justice attorneys cannot continue to work on this matter, including engaging in discussions with Movants’ counsel regarding such issues.

4. In light of the lapse of appropriations, the parties request a stay of the deadline for Movants’ reply at least until Congress has restored appropriations to the Department and these access-related issues have been resolved. The Government makes no representation regarding whether, after consulting with relevant agencies and the parties, the Government will ultimately agree to the disclosure of any additional information contained in the response and declaration filed by the Government.

5. If this motion for a stay is granted, undersigned counsel proposes to notify the Court within five days after Congress has appropriated funds for the Department. The parties propose that, at that point in time, deadlines can be re-set as appropriate under the circumstances,

accounting for a time period at least equal to the duration of the lapse in appropriations and any additional time that may be provided by the Court in response to Movants' requests to access classified information. While the Government cannot predict the ultimate impact the lapse in appropriations will have, at this point the parties do not anticipate that any other present deadlines would need to be extended.

Therefore, the parties hereby move for a stay of proceedings in this case including, in particular, the October 21, 2013, deadline outlined above, until Department of Justice attorneys are permitted to resume their usual civil litigation functions and consult with Movants regarding the issues they have raised regarding access to classified information in the Government's response and declaration. A proposed Order is attached.

October 7, 2013

Respectfully submitted,

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)	

**[PROPOSED] ORDER GRANTING JOINT MOTION  
FOR STAY OF PROCEEDINGS**

On October 7, 2013, the parties in the above-captioned cases filed a joint motion for a stay of proceedings. Accordingly, it is hereby ORDERED that the joint motion is GRANTED and the proceedings including, in particular, the October 21, 2013, deadline for the Movants'

reply, are stayed until Department of Justice attorneys are permitted to resume their usual civil litigation functions and consult with Movants regarding the issues they have raised regarding access to classified information in the Government's response and declaration.

SO ORDERED, this \_\_\_\_ day of October, 2013.

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REGGIE B. WALTON  
Judge, United States Foreign  
Intelligence Surveillance Court